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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,814	03/21/2001	Takashi Yugami	826.1716	1934

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EXAMINER

ZURITA, JAMES H

ART UNIT PAPER NUMBER

3625

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/812,814

Applicant(s)

YUGAMI ET AL.

Examiner

James H. Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-10, 12-15 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-10, 12-15 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/5/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History

On 21 March 2001, applicant filed the instant application. Applicant claims priority to application 2000-307563, filed 6 October 2000 in Japan.

On 23 December 2003, the Examiner issued a non-final rejection of claims 1-11 as anticipated by Kaminsky (PG-PUB 2001/0047308).

On 24 May 2004, applicant amended claims 1, 4, 6-11, cancelled claims 2, 3, 5.

On 1 July 2004, the Examiner rejected claims 1, 4, 6-11 as anticipated by Kaminsky, above. The Examiner introduced a rejection under 35 USC 101.

On 1 October 2004, Applicant amended claims 1, 4, 6-11, added claims 12-17.

On 19 October 2004, the Examiner issued a final rejection of claims 1, 4, 6-17.

On 19 January 2005, applicant filed a notice of appeal. No appeal brief was filed.

On 22 February 2005, applicant requested continuing examination (**RCE**).

On 12 April 2005, the Examiner rejected claims 1, 4 and 6-17 as unpatentable over Kaminsky, above.

On 11 August 2005, applicant amended claims 1, 8-12 and 16-17.

On 4 November 2005, Examiner issued a final rejection of claims 1, 4 and 6-17

On 3 February 2006, applicant requested continued examination (**RCE**).

On 14 April 2006, the Examiner rejected claims 1, 4 and 6-17 as unpatentable over Kaminsky U.S. PG-PUB 2001/0047308 in view of Lange (US 6,321,212).

On 12 July 2006, applicant filed a response.

Response to Amendment

Applicant's submission of 12 July 2006 has been entered.

Applicant cancelled claims 1, 4, 6, 7, 11, 16 and 17, amended claims 8, 9, 10 and 12 and added claim 18.

Claims 8-10, 12-15 and 18 are pending and will be examined. Claims 8, 9, 10 and 12 are independent.

Response to Arguments

Applicant's arguments filed 12 July 2006 have been fully considered but they are not persuasive. Applicant argues:

The Applicants respectfully disagree with the Examiner. Lange fails to disclose ...Lange fails to disclose...as also recited in claim 9, for example.

Instead, Lange discloses methods and systems of trading and investing in groups of demand-based adjustable-return contingent claims, and for establishing markets and exchanges for such claims (see Abstract). Further, in column 3, lines 35-49, Lange merely discloses a holder purchasing a call option for a stock, which gives the holder the right to buy the stock at some future date at a fixed strike price.

In response to these arguments, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 8-10, 12-15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminsky U.S. PG-PUB 2001/0047308 in view of Lange (US 6,321,212).

As per claims 8 and 12, Kaminsky discloses managing a selling price, comprising:

receiving a discount price transition table from a server via a network said discount price transition table indicates dates and discount prices (see, for example, at least Figs. 3 and 4);

receiving allocation of the product, when a predetermined quantity of the product has not been sold out when the reservation sales time is reached price (see, for example, at least paragraph 0049 and paragraph 0050).

As per claim 8, Kaminsky **does not** specifically disclose that the table includes a date after a current date, and each discount price corresponds to each date. As previously noted without traverse and therefore admitted prior art, Kaminsky discloses a method where the merchant can set rules (the rules are stored via a database as shown in Figure 2,"36") for a current price. For the current price, the merchant can choose a start price for each product in a given lot that is 20 to 40% off of the regular list price. The merchant then also sets the percentage increment by which current price of a product can move up or down. Current price will drop a certain percentage over a given period of time (i.e., 3% drop every 6 hours) as set by the seller (paragraph 050). Using the rule of Kaminsky as an example (i.e., 3% drop every 6 hours) and assuming that a

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product for sale had a starting price of \$100.00. The following information could be extrapolated in table form. Again

Price	Day	Time
\$100	1	+0 hrs
\$97	1	+6 hrs
\$94	1	+12 hrs
\$91	1	+18 hrs
\$88	1	+24 hrs
\$86	2	+0 hrs
\$83	2	+6 hrs
\$81	2	+12 hrs
\$78	2	+18 hrs
\$74	2	+24 hrs

The Examiner notes, a discount price transition table that includes dates and discount prices is merely a manipulation of the rule / algorithm as disclosed by Kaminsky. A table can be defined as a list of entries, each entry being identified by a unique key and containing a set of related values. Kaminsky teaches that some of the pricing schemes permit a buyer to request a deferred purchase at a deferred purchase price. See, for example, paragraph 21.

Kaminsky **does not** specifically disclose making and accepting a purchase reservation from said purchaser's terminal via the network, the purchase reservation specifying a future date among the dates indicated in said discount price transition table when the discount price corresponds to a desired purchase price of the purchaser. This feature is disclosed by Lange, as in Col. 3, lines 36-50, for example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Kaminsky and Lange and disclose accepting a purchase reservation from said purchaser's terminal via the network, the purchase reservation specifying a future date among the dates indicated in said discount price

transition table when the discount price corresponds to a desired purchase price of the purchaser.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Kaminsky and Lange and disclose accepting a purchase reservation from said purchaser's terminal via the network, the purchase reservation specifying a future date among the dates indicated in said discount price transition table when the discount price corresponds to a desired purchase price of the purchaser for the obvious reason that this provides buyers a measure of protection from risk.

Claim 9, directed to a medium, is rejected on the same grounds as claim 8.

Claim 10, directed to an apparatus, is rejected on the same grounds as claim 8.

As per claim 13, Kaminsky discloses selling the product at one of the *discounted* prices when the sales quantity is less than the predetermined quantity and selling the product at a non-*discounted* price when the sales quantity is equal to or more than the predetermined quantity (paragraph 0052, for example).

As per claim 14, Kaminsky further discloses setting one of the discounted prices as a minimum discounted price (see, for example, paragraph 0044, "The business entity can set either a floor, or minimum price for the product they wish to offer..."); and

maintaining the minimum discounted price as a selling price of the product when the sales quantity is less than the predetermined quantity (see, for example, paragraph 0039).

As per claim 15, Kaminsky further discloses a method comprising allocating a product to the purchase reservation if the sales quantity is less than the predetermined quantity when the selling price reaches the desired purchase price (paragraph 0049 and paragraph 0050).

As per claim 18, Kaminsky further discloses canceling the purchase reservation if the sales quantity is equal to or greater than the predetermined quantity when the selling price reaches the desired purchase price (see, for example, at least paragraph 0056).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Zurita
Primary Examiner
Art Unit 3625
28 September 2006

James Zurita
Primary Examiner